

REPORT - PLANNING COMMISSION MEETING
September 8, 2005

Project Name and Number: Cingular Wireless-Lemos Lane (PLN2005-00122)

Applicant: NSA Wireless for Cingular Wireless

Proposal: To consider a conditional use permit for the construction of a wireless telecommunications facility with six panel antennas and one parabolic microwave antenna mounted on top of an existing PG&E lattice tower with three accessory ground-mounted equipments enclosed by a fence on property located between Ladero Street and Marabu Way, west of Lemos Lane in the Mission San Jose Planning Area.

Recommended Action: Approve project, based on the findings and subject to the conditions.

Location: West of Lemos Lane, east of Paseo Padre Parkway between Ladero Street and Marabu Way

Assessor Parcel Number(s): 525 013005500

Area: Lot is 0.81 acres. Project area is 196 sq. ft.

Owner: City of Fremont

Agent of Applicant: Steve Christenson of NSA Wireless

Consultant(s): NSA Wireless and JES Engineering, Inc.

Environmental Review: This project is categorically exempt from CEQA review per Section 15303, New Construction or Conversion of Small Structures

Existing General Plan: Institutional Open Space

Existing Zoning: R-1-8 Single-Family Residential District

Existing Land Use: PG&E lattice tower

Public Hearing Notice: A total of 49 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Marabu Way, Ladero Street, Una Court, Vaca Drive, Valdez Way, Brush Lane and Quintana Court and Lane. The notices to owners and occupants were mailed on August 26, 2005. A Public Hearing Notice was delivered to The Argus on August 22, 2005 to be published by August 25, 2005.

Background and Previous Actions: The primary use for the site is a PG&E lattice tower, located approximately 750 west of Lemos Lane, 20 feet south of an existing residential neighborhood. The property is owned by the City of Fremont. The applicant has been in working with the City's Real Property Division to finalize a lease. The City Council approved the lease for the site on July 26, 2005. The lease cannot be signed until the applicant is approved for a conditional use permit to construct the proposed telecommunication facility.

The proposed roof-mounted facility is subject to a Conditional Use Permit because the City's Development Standards for Siting of Wireless Telecommunications Facilities (Ordinance 2213, adopted December 17, 1996) requires approval of Conditional Use Permit for roof mount facilities in residential zoning districts of less than one acre. The applicant's coverage maps shows that the coverage in much of the area is poor and a new telecommunication facility would improve coverage in the area. There is currently a roof-mounted facility on a PG&E tower 700 feet east of the project site. The applicant is unable to co-locate that tower because of lack of space.

Surrounding zoning and land uses:

North: Zoned R1, primarily single-family homes
South: Zoned R1, primarily single-family homes
West: Zoned Open Space, Railroad Right-of-Way
East: Zoned R1, PG&E lattice tower and single-family homes

Project Description: The applicant is proposing to install six panel antennas and one microwave dish on top of 83 feet, 10 inch PG&E lattice tower. The proposed antennas will extend 6 feet from the top of the tower, resulting in overall height of 89 feet, 10 inches. The panel antennas will be painted gray to match the PG&E lattice tower. The antennas will be 4-foot by 1 foot, and the microwave antenna that will be a diameter of 2 feet. The microwave antenna will be installed in between the panel antennas. The microwave dish is used as an alternative to the panel antennas and used in emergency situations. The applicant will lease from the City an area that is approximately 196 square feet for the equipment and fence. Staff inquired if the applicant could move the equipment shelter to the west side of the tower, so it would be screened from Lemos Lane. PG&E required that the applicant put the equipment shelter at the proposed location. Although the project site is located on City property, PG&E has an easement over the property. The applicant proposes to construct a 6-foot redwood fence around the equipment. Staff recommends that the fence be painted green to match the existing vegetation, and fast growing ivy be planted to screen the fence.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is Institutional Open Space. The following General Plan Goals, Objectives, and Policies are applicable to the proposed project:

Policy LU 4.4: Development of recreational or other public facilities on open space lands should conserve the open space character of the site and minimize impacts on mature landscaping and environmentally sensitive areas.

Analysis. The applicant will install panel antennas and a microwave dish on top of a PG&E lattice tower. The applicant will paint the antennas to match the tower so the antennas will blend the PG&E tower. The applicant will screen the equipment with a six-foot redwood fence; painted green and screened by ivy so it blends with the natural vegetation in the area and minimize the impacts of the enclosure may have to the character of the site.

Public Facilities Goal PF 1: A range of public facilities and services to meet the health, safety, leisure, cultural, and general governmental needs of all Fremont residents.

Analysis. Telecommunications facilities are public utilities, which provide communications systems to meet the needs of residents and businesses in Fremont. The proposed facility would improve coverage, and in addition to meeting the needs of residents and businesses, would benefit police and fire response to health and safety concerns.

Natural Resources Objective 13.31.1: Reduce the visual impacts of signs, utilities, and poles.

Analysis. The project reduces the impact of the project by painting the antennas to match the PG&E tower and screening the equipment with a six-foot tall fence, painted green, planted with vines.

Zoning Regulations: The zoning designation of the project site is R-1-8. The primary use is the PG&E lattice towers and power lines. The applicant proposes to lease a 196 sq. ft. area for the equipment. The Land Use compatibility section of the City's Wireless Ordinance (Ordinance 2213) requires that roof-mount facilities located in non-residential areas obtain a conditional use permit. All other conditions of the Wireless Ordinance shall apply and have been met by the applicant: Some specific examples include:

Standard C-14: The equipment cabinets/structures, if located where visible from a public right-of-way, shall be treated architecturally to match any existing building or topography on the site.

Analysis. The equipment cabinets will be screened with a six-foot redwood fence, painted green, screened with fast growing vines. Although, the fence will be partially visible from Lemos Lane, the equipment enclosure is treated and screened by vines so it blends with the surrounding environment.

Standard F-6: All roof-mounted facilities shall be painted a nonreflective matte finish, using an appropriate color that blends with the backdrop. The final choice of color shall be determined by staff on-site on a case-by-case basis.

As mentioned above, the antennas will blend with the existing PG&E lattice tower because the antennas will be painted gray to match the color of the tower.

Parking/Circulation: The project will not adversely impact parking or circulation. The applicant estimates that a technician will visit the site every four weeks for routine maintenance. The applicant will use the existing PG&E service road to access the site. Additional parking will not be required.

Fremont Municipal Code Section 8-22509(e): The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large.

Analysis: The proposed antennas will be constructed on top of a PG&E tower. The PG&E tower is approximately thirty feet from adjacent homes. The applicant has submitted a Radio Frequency (RF) report that states that the level of RF energy is well below the Maximum Permissible Exposure limit established by the FCC. Overall, the maximum power density at the proposed location is only 0.21% of the public Maximum Permissible Exposure established by the FCC. In addition, pursuant to the Federal Telecommunications Act, if a carrier demonstrates that it meets radio frequency standards established by the Federal government, the City may not deny a project based on radio frequency. Based on the RF report, the proposed project should not be detrimental to the general welfare of persons residing in the immediate vicinity, neighborhood, or community at large.

DESIGN ANALYSIS:

Architecture: As described above, the applicant is proposing to install six panel antennas and one microwave dish on top of 83 feet, 10 inch PG&E tower. The proposed antennas will extend 6 feet from the top of the tower, resulting in overall height of 89 feet, 10 inches. The applicant will paint the antennas gray, so they match the PG&E lattice tower. The equipment will be enclosed by a six-foot redwood fence painted green, screened by fast growing vines. The equipment enclosure will blend with the vegetation of the surrounding site.

Site Planning: The antennas will be mounted on top of an existing PG&E lattice tower, while the enclosure will be constructed twenty feet east of the PG&E tower. The enclosure will be constructed on flat ground near existing vegetation. The applicant will lease an area of approximately 196 sq. ft. and will construct a six-foot redwood fence, paint the fence green, and screen it with vines. The site will be serviced by the existing PG&E service road accessible from Lemos Lane.

Landscaping: The applicant is proposing to install fast growing vines on the fence to screen the equipment area and to help the equipment area blend with the existing vegetation. There will be little impact to the existing on-site vegetation. The landscaping will be irrigated by a water truck.

View Impacts: As described above, the antennas will be mounted on top of an existing PG&E lattice tower. Although the antennas will be visible, they will be painted gray to match the existing PG&E tower, which should reduce the visible impacts of the antennas. In order to reduce the impact of the telecommunication equipment, the applicant will screen the equipment with a six-foot redwood fence, painted green, screened by fast growing vines.

Urban Runoff Clean Water Program: The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements for any new construction.

ENVIRONMENTAL ANALYSIS: The proposed project has been reviewed under the California Environmental Quality Act (CEQA) Guidelines and has been found to be exempt under Section 15303, New Construction, or Conversion of Structures.

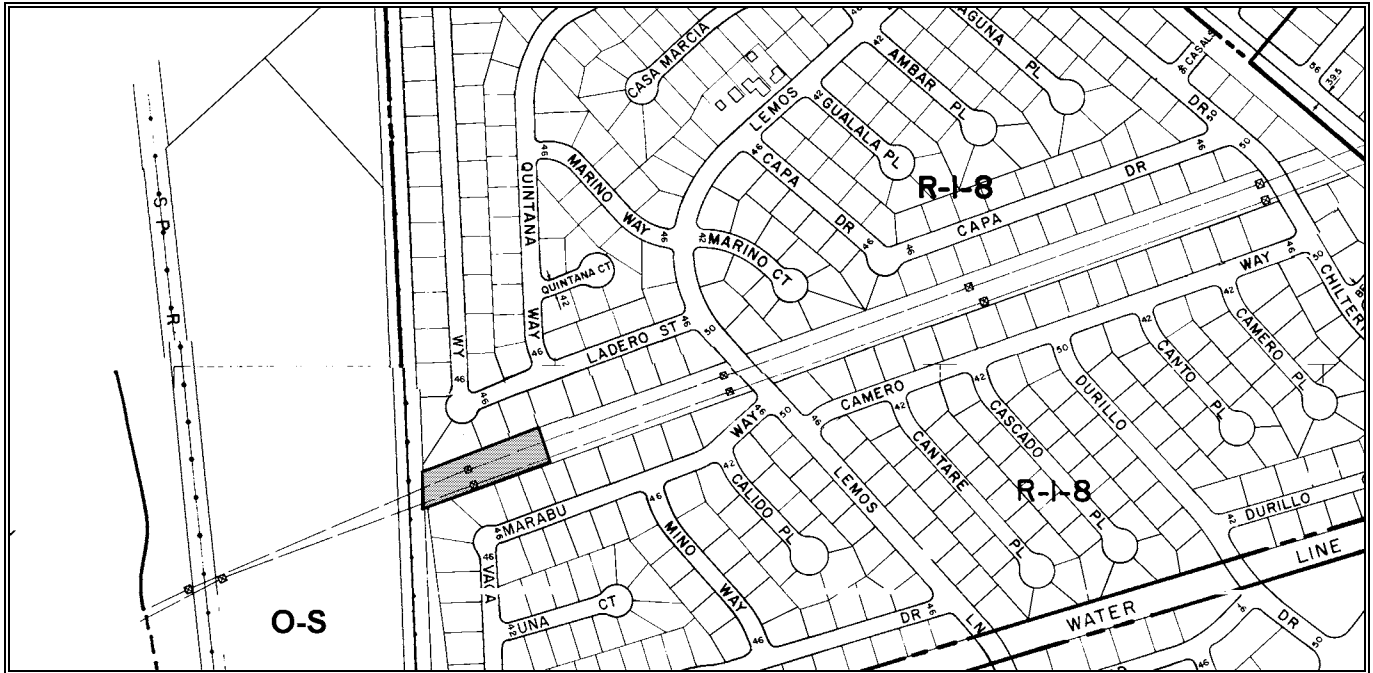
ENCLOSURES: Exhibit "A" Site Plans, Elevations, and Construction Details
Exhibit "B" Conditions of Approval
Exhibit "C" Photosimulations
Exhibit "D" Applicant letter
Exhibit "E" Coverage Maps
Exhibit "F" Vicinity Maps (Informational)

EXHIBITS: Exhibit "A" Site Plans, Elevations, and Construction Details
Exhibit "B" Conditions of Approval

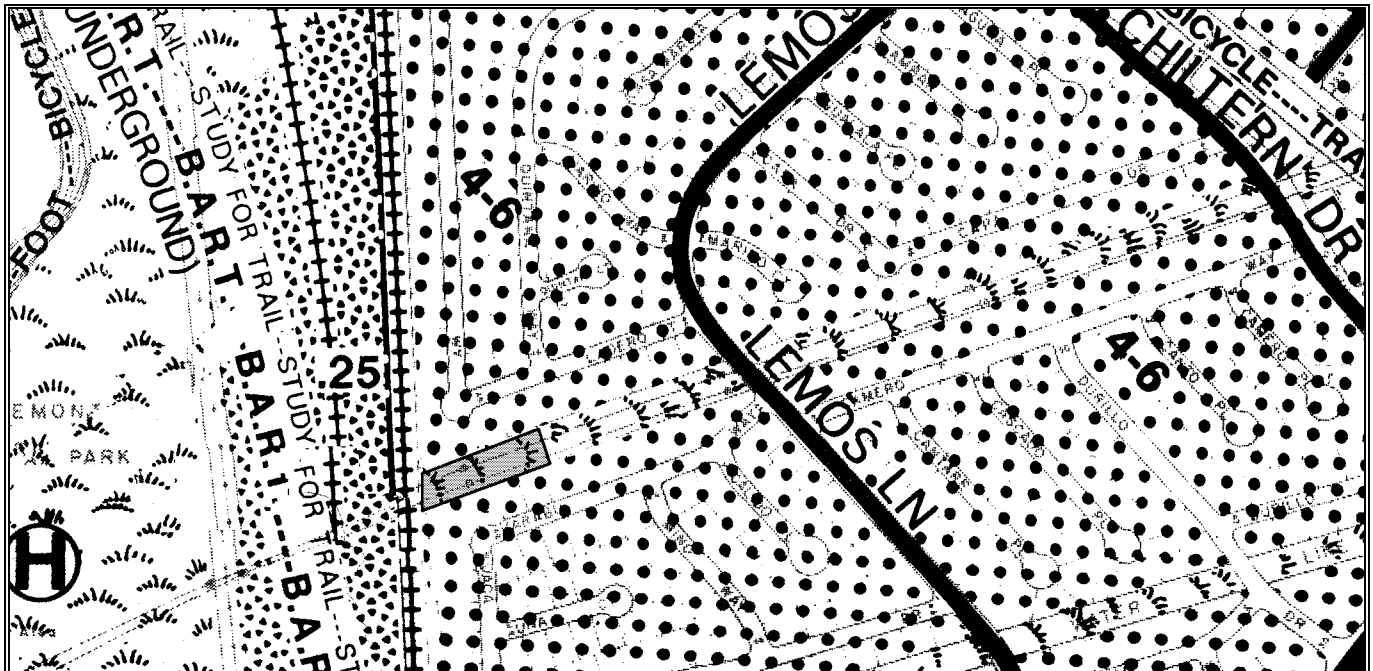
Recommended Actions:

1. Hold public hearing.
2. Find PLN2005-00122 is exempt from CEQA review per Section 15303, New Construction, or Conversion of Structures.
3. Find that PLN2005-00122 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals, and policies set forth in the General Plan's Fundamental Goals, Land Use, Public Facilities, and Natural Resource Chapter as enumerated within the staff report.
4. Find that PLN2005-00122 is in conformance with standards of the Wireless Telecommunications Ordinance (#2213).
5. Find that PLN 2005-00122 is in conformance with the zoning requirements of the O-S, Open Space zoning district.
6. Approve PLN2005-00122, Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



VICINITY MAP



Scale: 1:3,600 or 1"=300'

Exhibit "B"
Findings and Conditions of Approval for PLN20002-00122
Cingular Wireless-Lemos Lane Conditional Use Permit

Findings:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated September 8, 2005 incorporated herein:

1. The proposed use is consisted with the General Plan for the reasons provided in the staff report.
2. The site is suitable and adequate for the proposed use because it utilizes an existing PG&E tower and access road, and the associated equipment cabinet is properly screened with fencing and landscaping.
3. The proposed use and design would not have a substantial adverse impact on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system because the trips generated by the proposed use are only expected to be monthly technician service and water truck service. Access to the site will be through the existing PG&E access road which is not a public right-of-way.
4. The proposed use would not have a substantial adverse economic effect on nearby uses because it would not reduce business activities or commercial uses in the area, nor detract from property values, but instead provide public service for local residents and businesses.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large because the project is designed in a manner to be compatible with the surrounding uses and environment, and would not create nuisances because appropriate safety equipment and fencing is required, nor would the use degrade the environment because no residents or workers are located nearby who would be disturbed by minimal facility activities. In addition, residents and businesses will benefit from improved telecommunications coverage, as will police and fire communications.
6. The design of the project is compatible with existing and proposed development in the district and its surroundings because the antennas will be designed to blend with the PG&E lattice tower and the telecommunication equipment will be screened by a fence painted green and fast growing ivy.
7. The project will comply with the provisions of Article 27 of the Fremont Zoning Ordinance (Site Plan and Architectural Approval).

Conditions of Approval:

1. The project shall conform to Exhibit "A", Site Plan, Elevations, Constructions Details.
2. Plans shall be submitted to the Development Organization for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
3. This use permit shall take effect and be issued by the Planning Director within two years, upon the conclusion of review by the Development Organization and issuance of building permit. Should review by the Development Organization not be complete within two years, the permittee may apply for an extension of time.
4. The Planning Director is empowered to make minor modifications to this approval in keeping with overall intent hereof.
5. The fence shall be painted green to match the existing vegetation.
6. The applicant shall submit the final color and material samples of the antennas and fence to the Development Organization.

7. The microwave antenna shall be installed in between the panel antennas. The overall maximum height of the tower with the antennas shall be 89 feet and 10 inches.
8. The applicant shall plant fast growing vines to screen the fence and equipment. The applicant shall provide necessary irrigation for such vines, and will maintain and replace the vines as needed to maintain screening coverage. The applicant shall submit the type of vine to the Development Organization.
9. If the Planning Director finds evidence that conditions of approval have not been fulfilled or uses has or have resulted in a substantial adverse effect the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Planning Director may refer the use permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Commission may modify or revoke the use permit.
10. The applicant shall submit to the Fire Department data on battery capacity. The data shall include the amount of liquid in each battery and the total amount on-site including all existing batteries.
11. If the total storage capacity of battery(s) exceeds 50 gallons in unsprinklered building or 100 gallons in a sprinklered building, the applicant shall provide monitoring of the ventilation system. In the event of a failure of the ventilation system, an alarm/notification to a constantly attended central station and/or automatic disengagement of charging system shall occur. Other mitigation required by California Fire Code Articles 64 and 80 shall still apply.
12. The applicant shall provide a detail of a the gate indicating the minimum opening width of at least 15 feet and a vertical clearance of at least 13 feet 6 inches to the Development Organization.
13. The applicant shall provide a Knox lock/box for access at the enclosure and the gate to the site.
14. The applicant shall provide a sign and address or signage at the entrance indicating site location to the Development Organization.
15. The applicant shall provide a sign on the project site/fence/building indicating the emergency phone number for the responsible party/person. The sign shall be shown on the plans submitted to the Development Organization.
16. The applicant shall provide a fire extinguisher for the cabinets. The fire extinguishers shall be indication on the plans submitted to the Development Organization.
17. The applicant shall meet all requirements in the 2001 California fire code and all local amendments to that code in Ordinance #2485.
18. The applicant shall submit to the Engineering Division a statement as to how Best Management Practices will be implemented to prevent pollution of storm water during project construction.
19. The applicant shall be responsible for maintenance of the telecommunications facility in a condition free of graffiti and for expeditious removal of any graffiti and repair of any damage caused by vandalism to any portion of the utility pole, antennas, and equipment.
20. The facility shall comply at all times with the applicable provisions of Ordinance No. 2213 and the Development Standards for Siting of Wireless Telecommunication Facilities.
21. Any provider that considers buying, leasing, or transferring ownership of this facility shall submit a letter of notification to the Planning Director.
22. The provider shall provide written notification to the Planning Director upon cessation of operations on-site. The provider shall remove all obsolete or unused facilities from the site within six months of termination of its lease, cessation of operations or expiration of its permit. Should the provider fail to effect such removal, the property owner shall be responsible.

23. Construction activities shall occur only during the following hours:

7 a.m. to 7 p.m. Monday thru Friday

9 a.m. to 6 p.m. Saturday

No Construction on Sunday